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### **REMARKS**

Claims 1-14 and 16-22 are pending in the application. The Examiner rejected these claims. Applicant requests reconsideration of these rejections for the following reasons.

First, the Examiner rejected claims 1-4, 6, 7 and 21 under 35 U.S.C. §103(a) as being unpatentable over *Fischer, et al.* in view of *Tanaka, et al.* The Examiner contends that there is sufficient motivation for this combination because “*Tanaka* discloses a final amplification factor, where determining the amplitude in this manner, the amount of information needed to control intake noise is materially less.” [Final Office Action, p.9]. The Examiner apparently contends that this feature would benefit the invention of *Fischer, et al.* However, there is nothing within *Fischer, et al.* that suggests a need for this alleged benefit. Furthermore, *Fischer, et al.* stresses the importance of accessing oscillation patterns quickly. [*Fischer*, column 2, ll. 53-57]. Such an object could be defeated by introducing the secondary operation of *Tanaka, et al.* of scaling the oscillation pattern. Therefore, the combination is improper. Claims 1-4, 6, 7 and 21 are allowable over the combination of *Fischer, et al.* and *Tanaka, et al.*

The Examiner further rejected claims 9-11, 13 and 14 under 35 U.S.C. §103(a) as being unpatentable over *Fischer, et al.* in view of *Tomisawa*. The Examiner contends that there is motivation to use a speaker disposed in an air intake system as taught by *Tomisawa* in the system of *Fischer, et al.* Applicant argued such a combination was improper because *Fischer, et al.* teaches away from its combination with *Tomisawa* by indicating that the speaker be in the passenger compartment rather than in an air induction system. Furthermore, the location of the error

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microphones of *Fischer, et al.* in the passenger compartment also teaches away from locating the speaker in the air induction system. These teachings undermine the contention that there is sufficient motivation for the combination, not because the combination is impractical, but because *Fischer, et al.* teaches the importance of reducing noise in the passenger compartment of a motor vehicle with the speaker and error microphone located in this compartment. Despite these teachings, the Examiner argues without reference to *Tomisawa* the importance of canceling noise "at the noise generation source before propagation of the air intake noise into the passenger compartment." [Final Office Action, p.6]. Applicant contends that this unsupported motivation is overcome by the cited portions of *Fischer, et al.* that teach away from its combination with *Tomisawa*. Therefore, claim 9-11, 13 and 14 are allowable over the combination of references.

Claim 12 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Fischer, et al.* in view of *Tomisawa* and further in view of *Unno*. Because the combination of *Fischer, et al.* and *Tomisawa* is improper, so too is the rejection of claim 12. Therefore, claim 12 is in condition for allowance.

The Examiner rejected claims 16, 17, 18, 19 and 22 under 35 U.S.C. §103(a) as being unpatentable over *Fischer, et al.* in view of *Iidaka, et al.* Applicant disagrees with the Examiner's reading of *Iidaka, et al.* Specifically, any time is delay in reference to a digital filter circuit. [*Iidaka, et al.*, column 5, ll. 33-36]. There is no indication that the delay in time of *Iidaka, et al.* relates to a delay in transmitting the cancellation waveform data as required by claim 16. Therefore, claim 16 and its dependents, claims 17-20 and 22, stand in condition for allowance.

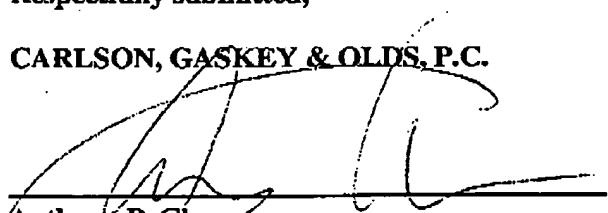
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For the foregoing reasons, Applicant requests allowance of claims 1-14 and 16-22.

Respectfully submitted,

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**CERTIFICATE OF FACSIMILE**

I hereby certify that this Response relative to Application Serial No. 09/779,725, being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on August 8, 2005.

  
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